IN THE HIGH COURT OF UTTARAKHAND
AT NAINIATA

Writ Petition No. 847 (S/S) of 2007

Shri Madan Mohan Singh Negi S/o Late Mahraj Singh Negi, posted as Deputy Range, Das-Ki-God Range, Dharsu, Tahri Dam Forest Division-II, Uttarakashi

-------Petitioner

Versus

1. State of Uttarakhand through Secretary, Ministry of Forests, Secretariat, Dehradun
2. The Chief Conservator of Forest, Garhwal, Uttarakhand, Pauri
3. The Conservator of Forest, Yamuna Circle, Uttarakhand, Dehradun ----------Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri C.D. Bahuguna, learned counsel for the petitioner and Sri Paresh Tripathi, learned Standing Counsel State of Uttarakhand for the respondents.

In this writ petition, since the legal question is involved only, there is no need to call for any counter affidavit and as the counsel for both the parties are agree, the writ petition is finally disposed of at the admission stage itself.

The stand of the petitioner is that he was a Forester in the year 2002 and was posted in the Forest Division, Mussoori. A charge sheet was submitted to the petitioner in which the charge against the petitioner was that there was illicit felling of trees within the area of which the petitioner was in charge and after holding inquiry, punishment order was passed on 24.01.2006.

Aggrieved with the punishment order, the petitioner preferred Writ Petition No. 379 (S/S) of 2006 and this writ petition was finally disposed of by this Court on 21.03.2006. The operative portion of the order is quoted hereunder:-

> "Consequently, liberty is given to the petitioner to file an appeal before the departmental Appellate Authority within a period of one month. If any delay is found in filling of the appeal, the same shall be deemed to have been condoned. If such an appeal is filed, the concerned departmental Appellate Authority is directed to decide the same within a period of four months. The operation of the impugned order of punishment dated 24.01.2006 shall remain in abeyance during pendency of the appeal."

Learned counsel for the petitioner has submitted that in pursuance to the order passed by this Court, appeal was preferred by the petitioner on 12.04.2006 and as many as 24 grounds were raised in the appeal, which is filed herewith as Annexure 10 the writ petition. However, the respondent while deciding the appeal has not recorded any finding on any of the ground and dismissed the appeal.

I have perused the order passed by Appellate Authority, which is the order impugned in the writ petition. While deciding the appeal, the Appellate Authority has passed the order as under:-

> "उपरोक्त दण्ड के विरूध श्री मदन मोहन सिंह नेगी उपराजिक अपचारी कर्मचारी द्वारा प्रत्यावेदन दिनांक 12.04.06 वन संरक्षक यमुना वृत्त के माध्यम से इस कार्यालय को प्रेशित किया गया। अपचारी कर्मचारी द्धारा अपने प्रत्यावेदन में जिन बिन्दुओं का उल्लेख किया है। उन पर विस्तृत विवेचन दण्डादे ा में समावे ा हैं।
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> प्र नगत प्रकरण में तत्सम्बन्धि सभी अभिलेखों के परीक्षण करने पर पाया गया कि वन संरक्षण यमुना वृत्त देहरादून द्धारा अपचारी कर्मचारी को दिया गया दण्डादे ा उचित है। अतः इन

दण्डों को यथावत रखने के निर्णय लेते हुए श्री मदन मोहन सिंह नेगी उपराजिक का प्रत्यावेदन खारिज किया जाता है।"

While deciding the appeal, it is expected from the Appellate Authority to record finding at the points raised by the applicant.

Learned Standing Counsel has submitted that in case the Appellate Authority is confirming the order passed by the Disciplinary Authority, the Appellate Authority is not required to record the reasons.

I fully agree with the submission made by the learned Standing Counsel that the Appellate Authority is not required to go into detail and record detailed reasons while it is accepting the finding recorded by the Disciplinary Authority, but at least it is required from the Appellate Authority to record that he has perused the finding recorded by the Disciplinary Authority and he is in agreement with the finding recorded by the Disciplinary Authority. But in the present case, the Appellate Authority has not stated a single word. What he has stated is that the points, which have been raised by the petitioner, they have been discussed by the Disciplinary Authority in the order of punishment.

In my opinion it is not sufficient. The Appellate Authority should not have passed order on an appeal in a mechanical way. It is a quasi judicial order and the Appellate Authority is required to apply its mind and then pass order.

For the reasons recorded above, the order dated 13.06.2007 passed by respondent no. 2 is quashed. Respondent no. 2 is directed to pass fresh order in accordance with law. Learned counsel for the petitioner is also directed to submit a certified copy

of this order before respondent no. 2 within a period of three weeks.

With this direction, the writ petition is finally disposed of. All the pending applications stand disposed of.

(M.M. Ghildiyal, J.)

11.07.2007
VKS